

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	SA CV 14-635-ODW (SP) SA CV 14-724-ODW (SP)	Date	June 10, 2014
Title	GABRIEL LORENZO ESTRADA v. JEFFREY BEARD		

Present: The Honorable	Sheri Pym, United States Magistrate Judge		
Kimberly I. Carter	n/a		n/a
Deputy Clerk	Court Reporter / Recorder		Tape No.
Attorneys Present for Petitioner:		Attorneys Present for Respondent:	
n/a		n/a	
Proceedings:	(In Chambers) Order to Show Cause Why Cases Should Not Be Consolidated, and Extending Deadlines to File Responding Documents		

Petitioner as filed two separate habeas petitions in this court under 28 U.S.C. § 2254, alleging substantially the same claims. The first, filed on April 22, 2014, received case number SA CV 14-635. The second, filed on May 8, 2014, received case number SA CV 14-724. Both challenge petitioner's conviction in Orange County Superior Court case number 10NF3888.

Petitioner has no right to proceed on two habeas petitions containing the same claims. "A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." 28 U.S.C. § 2244(b)(1).

On May 27, 2014, respondent alerted the court to these multiple petitions, and suggested that consolidation of the petitions into a single case would be appropriate. The court agrees; however, before determining whether the cases should be consolidated, the court will allow petitioner an opportunity to address this issue.

Accordingly, the court now ORDERS petitioner to serve and file a response to this Order to Show Cause Why Cases Should Not Be Consolidated or before **June 24, 2014**. If petitioner does not oppose consolidation, he should so state in his response, and should also state which of the two petitions he filed he wishes to be the operative petition in the consolidated cases. If petitioner does oppose consolidation, he should state his grounds for opposing consolidation in his response. If petitioner wishes to proceed on only one of his habeas petitions, he may request a voluntary dismissal of one

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of his two actions without prejudice pursuant to Federal Rule of Civil Procedure 41(a). **A Notice of Dismissal form is attached for Petitioner's convenience.** Whichever position petitioner wishes to take, he must file a response stating that position by June 24, 2014.

In light of the uncertainty created by the potential consolidation of these cases, the court now sua sponte extends the deadlines for respondent to file the responding documents currently due on June 27, 2014 in these cases by twenty-one days. Specifically, in case number SA CV 14-635, the court extends the deadline for respondent to file a motion to dismiss or answer to July 18, 2014. And in case number SA CV 14-724, the court extends the deadline for respondent to file a response to the stay motion to July 18, 2014.